

PUBLIC NOTICE

SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES,
THE OFFICE OF THE GOVERNOR OF SOUTH CAROLINA,
THE SOUTH CAROLINA DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL
THE NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION,
THE UNITED STATES FISH & WILDLIFE SERVICE, and
THE UNITED STATES NAVY

NOTICE OF INTENT TO CONDUCT RESTORATION PLANNING
pursuant to 15 C.F.R. Section 990.44

M/V EVER REACH OIL SPILL
of September 30, 2002

On or about September 30, 2002, #6 fuel oil was discharged or released into the waters of the Cooper River and Charleston Harbor, in South Carolina, from the containership M/V EVER REACH as that vessel entered, left or prepared to leave the river and harbor for its next port of call (hereinafter, generally referred to as "the oil spill"). The volume of oil discharged is not precisely known but has been estimated to be approximately 12,500 gallons. The distribution of oil was predominately concentrated along the western shore of the Cooper River between the Interstate 526 Bridge and the Cooper River Bridge, in the vicinity of the North Charleston Terminal and the Old Navy Base piers and docks; however, other shoreline areas were also exposed to varying degrees. These included tidal creeks and back water areas adjacent to James Island, Fort Johnson, Shutes Folly, Crab Bank, Morris Island, Folly Beach and Sullivan's Island. In all, the oil ranged over approximately 30 linear miles of shoreline comprised of a variety of shoreline types, including tidal flats, fringing marshes, intertidal oyster reefs, sandy beaches and manmade structures (i.e., docks, piers, bulkheads), and their associated sediments. The oil spill also resulted in the oiling of a number of shorebirds, a shellfish bed closure, and a temporary disruption to recreational shrimp baiting in area waters.

Evergreen International, S.A., the owner and/or operator of the M/V EVER REACH, was officially designated as the responsible party (RP) for the oil spill. Since the source of the oil was discovered, Evergreen International, S.A., has cooperated with relevant agencies in performing response and initial data collection activities, including activities to assist in determining whether injuries to natural resources likely occurred.

The South Carolina Department of Natural Resources (SCDNR), the Office of the Governor of South Carolina (SCOG), the South Carolina Department of Health and Environmental Control (SCDHEC), the National Oceanic and Atmospheric Administration (NOAA) of the United States Department of Commerce, the United States Fish and Wildlife Service (USFWS) of the United States Department of the Interior, and the

United States Navy (USN) (collectively, "the Trustees") each have authority to seek damages for injuries to natural resources resulting from the oil spill under the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §§ 2701 et seq., and other applicable federal laws, including Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300.600 et seq. SCDNR, SCOG, and SCDHEC also have such authority under the South Carolina Pollution Control Act, S.C. Code Ann 48-1-10 et seq. (Supp. 2002), or other applicable State laws.

The Trustees have determined (as outlined below) that the Spill warrants conducting a natural resource damage assessment (NRDA). This assessment will be conducted in accordance with the NRDA regulations for oil spills at 15 C.F.R. Part 990 (NRDA Regulations). This Notice serves to inform the public that the Trustees are proceeding with natural resource injury assessment and restoration planning for the oil spill and, further, seeks early input from the public on the restoration alternatives which should be included for consideration in the development of that plan. The public will have a future opportunity to comment on a draft of the restoration plan before it is finalized by the Trustees.

TRUSTEE DETERMINATIONS

The decision to proceed with a NRDA for this oil spill is based on and supported by the following determinations of the Trustees, as specified in the NRDA regulations:

A. Determination of Jurisdiction to Pursue Restoration, 15 C.F.R. 990.41 - In accordance with 15 C.F.R. 990.41, the facts relating to this oil spill show:

1. The M/V EVER REACH is a "vessel", as that term is defined by Section 1001(37) of OPA, 33 U.S.C. 2701(37) and 15 C.F.R. 990.30.
2. The subject discharge of # 6 fuel oil from the M/V EVER REACH into the Cooper River and Charleston Harbor on or about September 30, 2002, constitutes an "Incident" as that term is defined by Section 1001(14) of OPA, 33 U.S.C. 2701(14) and 15 C.F.R. 990.30.
3. This Incident was not permitted under any Federal, State, or local law, nor did it involve either a public vessel as defined by OPA Section 1001(29), 33 U.S.C. 2701(29) or an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651, et seq.
4. Further, data and other information gathered during the response or collected pursuant to 15 C.F.R. 990.43 as part of pre-assessment phase activities indicate that natural resources under their trusteeship were injured as a result of the oil spill, including but not limited to estuarine habitats and birds. The oil spill, including necessary response actions, also disrupted recreational shrimp baiting and prompted the temporary closure of one shellfish bed to recreational harvest.

Accordingly, the Trustees have determined that they have jurisdiction to pursue natural resource restoration under OPA.

B. Determination to Conduct Restoration Planning, 15 C.F.R. 990.42 - The Trustees have also concluded that it is appropriate to proceed with restoration planning for this Incident. This determination is based upon the data and other information (noted above) relating to this oil spill which indicates:

1. Natural resource injuries and resource service losses have resulted from the oil spill, including but not limited to injuries to estuarine habitats, birds and lost recreational use of area shrimp and shellfish resources.

2. Response actions have not adequately addressed, and are not expected to address, these injuries and losses. Response actions included actions such as protective booming, oil containment and partial removal from some shoreline areas (primarily, from beaches, man-made structures, and/or where pooling occurred); the capture, treatment and release of some oiled birds; protective closure of a shellfish bed, and the public dissemination of information or advisories intended to avoid or minimize the potential for human exposure. Oil could not be completely removed, however, from sensitive shoreline habitats such as marshes and tidal flats. Response actions could not wholly restore or rehabilitate any injured natural resources. Further, such actions do not compensate the public for resource service losses attributable to the oil spill, including the lost recreational use of area shrimp and shellfish resources.

3. Feasible restoration opportunities exist in the spill area for natural resources injured by the spill. Restoration planning will focus on the specific resource injuries and service losses caused by this oil spill, including those associated with affected salt marshes, tidal flats, shellfish beds, birds, and the lost recreational use of area shrimp and shellfish resources. Opportunities for restoration appropriate to address these injuries and losses may include but are not necessarily limited to alternatives such as monitored natural recovery, oyster reef restoration or creation, estuarine habitat preservation or enhancement, land acquisition, and establishment of upland buffers to protect estuarine areas.

NRDA COORDINATION

The Trustees are entering into a Memorandum of Agreement (MOA) to provide for ongoing coordination of this NRDA process by and among the Trustees. Further, by letter dated December 11, 2002, issued pursuant to 15 C.F.R. 990.14(c), the Trustees invited the RP to participate cooperatively in any NRDA initiated for this oil spill and the RP has officially confirmed its interest in participating in a cooperative NRDA. The Trustees may enter into a Memorandum of Agreement with the RP to provide for its participation in the NRDA process.

ADMINISTRATIVE RECORD

Concurrent with the issuance of this Notice, the Trustees have opened an Administrative Record (AR) to hold the information, records and other documents relied upon by the Trustees as they proceed with the NRDA for this oil spill. The AR is public. It is being maintained locally and is accessible by appointment during normal business hours at the offices of the United States Fish & Wildlife Service, Division of Ecological Services, 176 Croghan Spur Road, Charleston, S.C. Appointments to review the AR may be arranged by contacting Diane Duncan at that address, or by phone at 843-727-4704, ext. 29. The AR contains a copy of this Notice. The Trustees MOA and other documents will be added as each is finalized or becomes available, including a planned Preassessment Data Report, a compilation of the preassessment data for this oil spill. The report, currently being developed, will include information and data that supports the Determinations of the Trustees set forth in this Notice. Today's Notice is intended to ensure that the public is aware that a coordinated assessment of natural resource damages for this oil spill is proceeding and to provide the public with an early opportunity to submit information to the Trustees on potential restoration opportunities in the spill area which might be appropriate to address natural resource injuries and losses caused by this oil spill. To submit such information on potential restoration alternatives, or for further information related to this Notice, contact: Tom Moore, NOAA Restoration Center, 9721 Executive Center Dr. N., Suite 114, St. Petersburg, FL 33702, by phone at 727-570-5716, by fax at 727-570-5390, or by email: Tom.Moore@noaa.gov.